



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.

EXAMINER	
ART UNIT	PAPER NUMBER
	10


DATE MAILED

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.

**A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS ACTION IS SET  
TO EXPIRE TWO MONTHS, DAYS FROM THE DATE OF THIS LETTER.**

*(see attached communication, PTO 892, and references)*

  
HOWARD L. LOCKE  
EXAMINER  
CHECKED ART UNIT 1661

09/255107  
PTOL 90 (REV 10 80)

10/1/97

As indicated in availability of claim 1, all claim 17 withdrawn in  
the communication set forth below

This communication sets forth a new requirement for  
information under 37 CFR 1.105 by the Office. A new statutory  
period for response is set to expire two months from the date of  
mailing of this communication.

### 35 U.S.C. 102

The claimed rose cultivar 'Haryup' is described in Breeder's Right  
number 56 PBR R08511 which was filed on November 03, 1994 and  
published on January 14, 1995 (more than one year prior to the filing date of  
the instant application) and which matured into Grant/Reg. Number R08511  
on August 8, 1996 which was published on October 14, 1996 (more than one  
year prior to the filing date of the instant application)

The claimed rose cultivar 'Haryup' is described in Breeder's Right  
number 56 PBR 0501357 which was filed on October 23, 1991 (more than  
one year prior to the filing date of the instant application) and which matured  
into Grant/Reg. Number 5107 on December 20, 1993 which was published on  
August 1, 1994 (more than one year prior to the filing date of the instant  
application)

The claimed rose cultivar 'Haryup' is described in Breeder's Right  
number 56 PBR 050217 which was filed on October 11, 1996 (more than  
one year prior to the filing date of the instant application) with denomination  
accepted and accepted on September 15, 1997 (more than one year prior to  
the filing date of the instant application)



• Requirement for information under § 7 CFR 1.105 is attached. This requirement is subject to the provisions of § 7 CFR 1.134, 1.135 and 1.136 and has a defined statutory period of 2 months from the mailing date of this communication. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER § 7 CFR 1.134.**

Notice of  
USPTO

USPTO has revised the rules for 37 CFR 1.85, which set forth the requirements for drawings in patent applications and for new drawings filed in connection with applications filed thereafter. In particular, 37 CFR 1.85(a) has been amended.

Photographs must be developed on paper meeting the sheet size requirements of paragraph (f) of this section and margin requirements of paragraph (g) of this section.

The USPTO will accept photographs mounted on flexible and other materials. Further information on the new rules is available on the USPTO web site at [www.uspto.gov](http://www.uspto.gov).

### SPECIAL UPDATE ON DRAWINGS!

The rules for submitting drawings, 37 CFR 1.85 and 37 CFR 1.165, were amended effective November 29, 2000. The USPTO has delayed enforcement of these changes until October 01, 2001. Drawings in compliance with old rules will be accepted through September 30, 2001. Complete details can be found in the May 22, 2001, Official Gazette (1246 OG 106-107) on the internet at:  
<http://www.uspto.gov/web/offices/com/sol/og/2001/week21/patwavr.htm>

Applicants are advised of the new procedures for amending the pre- and post-grant claim under 37 CFR 1.121. The new procedures are optional until February 28, 2001 and **mandatory** beginning March 01, 2001. Information on the new procedures is available on the internet at:  
<http://www.uspto.gov/web/offices/pat/mpep/spe-2001-02.htm>

...should report the communication to the examiner  
...examiner (Howard J. Locker whose telephone number is  
...and whose normal work hours are Monday through Thursday  
...to 500 pm

...attempts to reach the examiner by telephone are unsuccessful the  
...supervisor Mr. Bruce Campbell can be reached at 703-308-5205


...of a general nature of 1000 by 1000 status of the  
...be directed to the group receptionist whose telephone  
...703-308-5000

## TELECOPY/FACSIMILE TRANSMISSION

...the application may be submitted to Group 1000 by  
...transmission. Papers should be faxed to this group via the 400 fax  
...faxing of such papers must conform to  
...the official gazette 1000 of 10 November 15 1980  
...703-308-4550 or 703-308-5502

...of the bid

...of the bid

  
HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT 1661

## REQUIREMENT FOR INFORMATION UNDER 37 CFR 1.105

Applicant and the assignee or assignee of this application are hereby notified under 37 CFR 1.105 to provide the following information that the Office may deem necessary to the examination of the application.

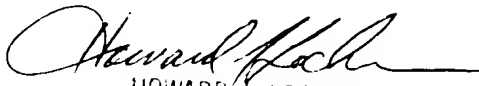
The information is required to determine when and/or where claimed plant variety "Harvum" was publicly available prior to the filing date of the instant application for United States Plant Patent.

In response to this requirement, please provide any information available regarding the sale or other public distribution of the claimed plant variety anywhere in the world, including the date(s) of any sale or other public distribution. Also, please provide copies of the applications, published applications, denominations, and published breeder's right grants. The Office does not maintain a collection of Breeder's Rights documents and they are not readily obtainable electronically. It is reasonable to expect that Applicant or assignee of applicant can readily obtain the requested documents and information.

The prior art certification requirement of 37 CFR 1.97 are waived for those arguments submitted in reply to this requirement. This waiver extends only to those arguments within the scope of this requirement under 37 CFR 1.105 and is not included in the first complete communication responding to his requirement. Any supplemental replies subsequent to the first communication responding to this requirement under 37 CFR 1.105 are subject to prior art and certification requirements of 37 CFR 1.97.

...and that the fee for this requirement must be made  
in advance of a date fixed under 37 CFR 1.56. Where applicant does not have  
information readily obtainable or required information, a statement that the  
information has or not readily obtained will be accepted as a complete  
satisfaction of the requirement for that item.

This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and  
1.136, which provide a shortened statutory period of 2 months. EXTENSIONS OF THIS  
PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

  
HOWARD J. LOCKER  
EXAMINER  
GROUP ART UNIT 2661